

SENATE BILL 2244

By Tracy

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 33, Part 2; Title 55, Chapter 16, Part 1 and Title 55, Chapter 17, Part 1, relative to unlicensed motor vehicle transactions.

WHEREAS, it is the intention of the General Assembly that residents of this state have the right to sell their personally owned vehicles to any person without unnecessary burdens placed upon them by the state; and

WHEREAS, "curbstoning" is buying and selling motor of vehicles without a motor vehicle dealer license and falsely representing that the motor vehicle is "for sale by owner"; and

WHEREAS, curbstoner purchases are often structured to bypass laws meant to protect buyers; and

WHEREAS, buyers unknowingly purchase damaged, dangerous, or uninsurable vehicles without disclosure from sellers; and

WHEREAS, sales tax fraud is often associated with curbstoning, oftentimes perpetrated by the seller who fails to register the motor vehicle prior to resale, thus avoiding payment of sales and use tax, and failing to "close" the title; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-16-103, is amended by adding the following as a new, appropriately designated subdivision:

( ) "Curbstoning" means the practice of:

(A) Selling, offering for sale, advertising for sale, or soliciting the sale of a motor vehicle not titled in the seller's name or validly assigned to the seller and the seller is not a licensed motor vehicle dealer under § 55-17-109; or

(B) Selling, offering for sale, advertising for sale, or soliciting the sale of more than five (5) motor vehicles in any twelve-month period when the motor vehicles are titled in the seller's name, if the seller is not a licensed motor vehicle dealer under § 55-17-109.

SECTION 2. Tennessee Code Annotated, Section 55-16-104, is amended by deleting the section in its entirety and substituting instead the following subsections:

(a) A police department may take into custody any motor vehicle found abandoned, immobile, or unattended on public or private property. In such connection, a police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing abandoned, immobile, or unattended motor vehicles.

(b) For purposes of this section, an "abandoned, immobile, or unattended motor vehicle" includes any motor vehicle used in curbstoning. This section will not apply to any motor vehicle located on residential property until official notice has been placed on the vehicle for at least forty-eight (48) hours indicating the vehicle is subject to forfeiture as an abandoned vehicle.

(c) A motor vehicle used in curbstoning is subject to forfeiture in the same manner as is provided by law for seizure and forfeiture as other items under title 40, chapter 33.

SECTION 3. Tennessee Code Annotated, Section 55-17-102, is amended by adding the following as a new, appropriately designated subdivision:

( ) "Closed title" means an executed certificate of title indicating the motor vehicle dealer as the current owner or transferee;

SECTION 4. Tennessee Code Annotated, Section 55-17-114(b)(1)(N), is amended by deleting the subdivision in its entirety and substituting instead the following subdivision:

(N) Possesses a certificate of title that is not a closed title unless the motor vehicle dealer maintains an executed consignment form developed by the motor vehicle commission of this state on each motor vehicle that does not have a closed title.

SECTION 5. Tennessee Code Annotated, Section 55-17-114(b)(1), is amended by adding the following as a new subdivision:

(T) Engaged in curbstoning as defined by § 55-16-103.

SECTION 6. Tennessee Code Annotated, Section 40-33-201, is amended by adding the language “§ 55-16-104,” between “§ 53-11-451,” and “§ 55-50-504(h),”.

SECTION 7. Tennessee Code Annotated, Section 40-33-210(a), is amended by adding the language “55-16-104,” between “53-11-451,” and “55-50-504(h),”.

SECTION 8. Tennessee Code Annotated, Section 40-33-211, is amended by adding the following as a new subsection:

(i) Notwithstanding subsections (a) and (b), the revenue derived from the sale of motor vehicles forfeited under § 55-16-104 shall be distributed as follows:

(1) Seventy-five percent (75%) of the revenue shall be retained by the entity responsible for the seizure;

(2) Ten percent (10%) of the revenue shall be transferred to the state and placed in the general fund; and

(3) Fifteen percent (15%) of the revenue shall be transferred to the department of commerce and insurance, division of consumer affairs for consumer education.

SECTION 9. This act shall take effect July 1, 2014, the public welfare requiring it.